IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.17900 of 2007

Date of Decision:27.11.2007.

Divisional Forest Officer
(Territorial) Forest Division, Jind.

....Petitioner.

Versus

1.Presiding Officer Industrial Tribunal-cum-
Labour Court, Hisar and another

...Respondents.

CORAM : HON'BLE MR. JUSTICE S.S.SARON.
HON'BLE MR. JUSTICE AJAI LAMBA.

Present:- Ms.Mamta Singal Talwar,AAG Haryana
for the petitioner.

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S.S.SARON, J.(ORAL)

By way of the present petition under Articles 226 and 227 of the Constitution of India, a prayer has been made for issuance of a writ in the nature of certiorari for quashing the award dated 22.3.2007 (Annexure P4) in pursuance of which the Presiding Officer, Industrial Tribunal-cum Labour Court, Hisar (respondent no.1) has answered the reference made to it in favour of the workman Satbir Singh (respondent No.2). It was held that the termination of the services of the workman was vitiated on account of non compliance with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short `the Act'). However, instead of reinstatement he was held entitled to payment of compensation of Rs. 35,000/- within two months from the date of publication of the award failing which it shall entail the liability of paying the amount along with interest at the rate of 9% per annum from the date of award till realization of the amount.

Learned counsel for the petitioners has contended that there has been no violation of provisions of Section 25-F of the Act, therefore, the compensation that has been awarded is illegal and unsustainable. It is also contended that in any case the amount of compensation is not liable to be awarded along with interest at the rate of 9 % per annum.

We have given our thoughtful consideration to the contention of learned counsel and perused the record.

Respondent No.2-Workman worked under the Divisional Forest Officer (Territorial) Forest Division, Jind, (petitioner-Management) at Safidon range as Beldar-cum-Mali on daily paid basis from 1981 to 31.10.2003. He was retrenched from service without payment of any compensation in violation of the provisions of Section 25-F of the Act. As a matter of fact, it was found by the learned Tribunal that he has completed 240 days during the 12 months period preceding the date of his termination i.e. 31.10.2003. The relevant 12 months period for the purpose of reckoning the benefit of Section 25-F of the Act was worked out from November 2002 to October 2003. On the basis of evidence and material on record it was held that the workman (respondent No.2) has completed 240 days preceding a period of 12 months from the date of his retrenchment. Accordingly, there was a clear breach of the provisions of Section 25-F of the Act. In view of the breach of the aforesaid provision and keeping in view the decision of the Hon'ble Supreme Court in Jaipur Development Authority v. Ram Sahai and another 2007 (1) RSJ 239, it was observed that reinstatement with back wages would not be appropriate and the interest of justice would be served if instead and in place of reinstatement,

compensation is awarded to him. Accordingly compensation has been awarded to the workman (respondent No.2) the rate of Rs.35,000/-. We feel no justification for interference with the impugned award dated 22.3.2007. The payment of interest at the rate of 9% is in the event if the amount is not paid within a period of two months from the date of publication of the award. We find that no illegality has been committed by the Presiding Officer, Industrial Tribunal-cum Labour Court, Hisar (respondent no.1) in awarding interest in the event of failure to pay the amount awarded within a fixed period of two months.

Accordingly, there is no merit in this petition and the same is accordingly dismissed.

(S.S. SARON)
JUDGE

(AJAI LAMBA)
JUDGE

Nov.27,2007.
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